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SUBJECT: AQUINO REFUSES TO PARTICIPATE IN TRIAL

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(B) MANILA 9766

SUMMARY: MILITARY TRIAL OF FORMER SENATOR AQUINO HAD HARDLY BEGUN BEFORE IT WAS POSTPONED FOR WEEK. AT OPENING SESSION, AQUINO REFUSED TO PARTICIPATE, DISMISSED HIS DEFENSE COUNSELS AND DELIVERED EMOTIONAL ATTACK ON MARCOS, MARTIAL LAW AND HIS OWN DETENTION. HE CALLED TRIAL A MOCKERY AND STATED THAT HIS GUILT HAD BEEN PRE-DETERMINED BY PRESIDENT. IN WAKE OF AQUINO'S ACTIONS, PROSECUTION ANNOUNCED DECISION TO GRANT A SUPREME COURT REQUEST FOR DELAY FOR FURTHER STUDY OF ISSUES RAISED IN PETITION OPPOSING MILITARY TRIAL, SUBMITTED BY AQUINO'S LAWYERS. END SUMMARY.

1. ON AUG 27, MILITARY COMMISSION #2, RESPONSIBLE FOR TRIAL

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OF FORMER SENATOR AQUINO ON CHARGES OF ILLEGAL POSSESSION OF FIREARMS, MURDER AND SUBVERSION, POSTPONED

CONTINUATION OF TRIAL FOR ONE WEEK IN RESPONSE TO MOTION FILED BY HEAD OF PROSECUTION PANEL. DELAY REPORTEDLY MADE IN DEFERENCE TO REQUEST BY SUPREME COURT FOR ADDITIONAL TIME TO STUDY ISSUES RAISED IN PETITION BY AQUINO'S LAWYERS FOR INJUNCTION AGAINST MILITARY TRIAL.

2. PETITION CHALLENGED CONSTITUTIONALITY OF SEVERAL MARTIAL LAW DECREES AND GENERAL ORDERS. ACCORDING PRESS, SUPREME COURT, WHICH MET OVER WEEKEND, WAS CONFRONTED WITH BASIC PROBLEM OF RECONCILING QUESTIONS RAISED IN PETITION WITH ARTICLE X OF 1973 CONSTITUTION. THIS PROVISION STATES THAT CASES INVOLVING CONSTITUTIONALITY OF A LAW SHALL BE HEARD AND DECIDED BY FULL COURT AND NO LAW MAY BE DECLARED UNCONSTITUTIONAL WITHOUT CONCURRENCE OF AT LEAST TEN MEMBERS. COURT'S MEMBERSHIP WAS INCREASED FROM 11 TO 15 JUSTICES BY NEW CONSTITUTION, BUT THERE ARE SIX VACANCIES AND ONE JUSTICE IS OUT OF COUNTRY. THUS, ON AUG 26, COURT ASKED AFP JUDGE ADVOCATE GENERAL'S OFFICE TO EXPLORE POSSIBILITY OF POSTPONING MILITARY TRIBUNAL'S HEARING OF CHARGES AGAINST AQUINO TO ALLOW TIME TO REACH CONSENSUS.

3. DECISION TO POSTPONE FURTHER PROCEEDING CAME AS RESULT UNEXPECTED AQUINO TACTICS AT ONE-HOUR, CROWDED, PUBLIC SESSION OF MILITARY TRIBUNAL ON AUG 27. AS TRIAL OPENED, AQUINO WAS REQUESTED TO NAME HIS COUNSEL. IN SURPRISE MOVE HE RESPONDED BY STATING THAT HE WOULD NOT PARTICIPATE IN TRIAL AND WOULD NOT DEFEND HIMSELF AGAINST THE CHARGES. HE DISMISSED HIS CIVILIAN LAWYERS, AND THEY WITHDREW FROM THE PROCEEDINGS. AQUINO ALSO DISMISSED TWO MILITARY DEFENSE ATTORNEYS ASSIGNED TO HIS CASE AND ASKED TO BE RETURNED TO HIS CELL TO AWAIT VERDICT. AFTER SEVERAL OBJECTIONS BY PROSECUTION, AQUINO WAS PERMITTED TO READ A PREPARED STATEMENT. MILITARY COMMISSION DECLINED TO ARRAIGN AQUINO WITHOUT COUNSEL.

4. IN HIS REMARKS, AQUINO AVOIDED ADDRESSING SPECIFICS OF CHARGES PLACED AGAINST HIM. INSTEAD HE DELIVERED AN LIMITED OFFICIAL USE
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EMOTIONAL SPEECH IN WHICH HE ATTACKED HIS DETENTION AND THE ARREST AND INTERROGATION OF HIS RELATIVES AND ASSOCIATES. EXPRESSING HIS FAITH IN DEMOCRATIC FREEDOMS AND FILIPINO PEOPLE, AQUINO ACCUSED MARCOS OF SEIZING UNLIMITED POWER AND SETTING ASIDE THE "GREAT PRINCIPLES OF DEMOCRACY... FOR THE CONVENIENCE OF ONE MAN'S CONTINUED STAY IN POWER." MARCOS, HE SAID, HAD PRONOUNCED HIM GUILTY OVER NATIONAL TELEVISION IN 1971 BUT NEVER BROUGHT HIM TO TRIAL UNTIL MARTIAL LAW. BECAUSE OF THIS AND THE FACT THAT PRESIDENT CAN ALTER DECISION OF A MILITARY COURT, HE

CONTINUED, THE TRIAL "IS ALL A CHARADE". AQUINO SAID HE HAD DECIDED NOT TO PARTICIPATE BECAUSE TRIAL IS "AN UNCONSCIONABLE MOCKERY", AND HIS ENTIRE "BEING IS AGAINST ANY FORM OF DICTATORSHIP". SAYING THAT HE REALIZED CONSEQUENCES OF THIS DECISION AND THAT HE IS SUBJECT TO SENTENCES RANGING FROM TWELVE YEARS TO DEATH, AQUINO CHARACTERIZED HIS REFUSAL TO PARTICIPATE AS A PROTEST AGAINST MARCOS AND MARTIAL LAW.

5. LOCAL MEDIA HAVE SO FAR COVERED PROCEDURAL PROGRESS OF SUPREME COURT HEARING AND TRIAL FROM GOVT SIDE AND PLAYED UP DETAILS OF CHARGES AGAINST AQUINO. LITTLE ATTENTION HAS BEEN GIVEN TO SPECIFICS OF AQUINO'S PETITION AND SPEECH WITH EXCEPTION OF HIS CLAIM THAT MARCOS HAS PREJUDGED THE CASE. THERE HAS SO FAR BEEN NO COMMENT IN EDITORIALS OR COLUMNS.

6. COMMENT: CRAFTY MOVE BY AQUINO TO DISPENSE WITH DEFENSE APPARENTLY CAUGHT GOP OFF GUARD. AFP CHIEF OF STAFF ESPINO COMMENTED TO EMBOFF ON AUG 27 THAT AQUINO "REALLY CAUGHT US BY SURPRISE." DECISION TO GRANT SUPREME COURT REQUEST TO DELAY TRIAL THUS APPEARS TO BE TEMPORIZING MOVE TO ALLOW PROSECUTION TO REASSESS ITS STRATEGY.
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